

IN RE: PETITION FOR ZONING VARIANCE
W/S Oak Avenue, 550' N
Middleborough Road
210 Oak Avenue
15th Election District
5th Councilmanic District
Legal Owners: Benjamin F. O'Neal
et ux; Contract Purchaser:
Kimberly Ann Tiemann
Petitioners

* BEFORE THE
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
* Case No. 90-45-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 1802.3.C.1 to allow a buildable lot with a width of 50 feet in lieu of the required 55 feet, in accordance with Petitioners' Exhibit 1.

The Petitioner, Barbara O'Neal, one of the legal owners and her daughter, Kimberly Ann Tiemann, contract purchaser, appeared, testified and were represented by James C. Brennan, Esquire. However, the Petitioners were represented at the hearing by John Hennegan, Esquire of Romadka, Guntum and Hennegan. There were no Protestants.

Testimony indicated that the subject unimproved lot #30, known as 210 Oak Avenue, consists of 7,435 sq. ft. +/-, is zoned D.R. 5.5, is currently and has continuously been owned by the Legal Owners, Benjamin and Barbara O'Neal in the community known as Recreation Grove. Lot #31 is currently developed with a single family dwelling unit which is occupied by the Legal Owners. The Legal Owners intend to convey to their adult daughter, Kimberly Ann Tiemann, Lot #30 for the purpose of constructing a residence for her.

The evidence and testimony tends to indicate that Recreation Grove, the subdivision for both of these lots, was established in 1922. All of the lots in this subdivision were originally developed as 50 foot wide

lots for single family dwelling units. Most of the entire neighborhood is also developed as single family dwelling units on individual lots of 50 feet in width. The Petitioners own no additional residential acreage and to deny this variance would cause this individually deeded and platted lot to be rendered undevelopable from a residential perspective.

The Petitioners provided extensive evidence as to the standards established for an area variance pursuant to Section 307.1 of the Baltimore County Zoning Regulations (B.C.Z.R.). There was also evidence presented as to the standards established in Sections 307.2 and 500.14 concerning the requirements for granting a variance with the Chesapeake Bay Critical Area zone. The Petitioners testimony tends to indicate that the granting of the subject variance would be consistent with the standards established therein.

Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, in the opinion of the Zoning Commissioner the relief requested sufficiently complies with the requirements of Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.) and, therefore, should be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

After due consideration of the testimony and evidence presented, in the opinion of the Zoning Commissioner, the relief requested sufficiently complies with the requirements of Sections 307.1, 307.2 and 500.14 of the Baltimore County Zoning Regulations (B.C.Z.R.) and should therefore be granted. There is no evidence in the record that the subject variance

ORDER RECEIVED FOR FILING
Date 8/22/89
By M. D. Cook

PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.C.1 to allow a buildable lot with a width of 50 feet in lieu of the required 55 feet.

Strict compliance with the 55' minimum width regulation will unreasonably prevent the use of the property for a permitted purpose. The lot is serviced by sewer and water and contains 7,435 sq. ft., more or less; A 50' wide building lot is consistent with other properties in the zoning district; Relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

KIMBERLY ANN TIEMANN

(Type or Print Name)

Signature

919 Back River Neck Road

Baltimore, Maryland 21221

City and State

Legal Owner(s):

BENJAMIN F. O'NEAL

(Type or Print Name)

Signature

BARBARA R. O'NEAL

(Type or Print Name)

Signature

Attorney for Petitioner:

James C. Brennan, Esquire

(Type or Print Name)

Signature

825 Eastern Boulevard

Baltimore, Maryland 21221

City and State

Attorney's Telephone No. (301) 687-3434

212 Oak Road (301) 686-3116

Address Phone No.

Baltimore, Maryland 21221

City and State

Name, address and phone number of legal owner, contract purchaser or representative to be contacted

Name

Address

Phone No.

ORDER RECEIVED FOR FILING
Date 8/22/89
By M. D. Cook

ORDERED By The Zoning Commissioner of Baltimore County, this 31 day

of August, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 10 day of August, 1989, at 11 o'clock

A.M.

J. Robert Haines

Zoning Commissioner of Baltimore County

(over)

would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

The facts and evidence presented tend to establish that special conditions or circumstances exist which are peculiar to the land or structures located within the Chesapeake Bay Critical Areas of Baltimore County; that to deny the relief requested would result in practical difficulty, unreasonable hardship, or severe economic hardship upon the Petitioner; and that strict compliance with the Chesapeake Bay Critical Area requirements and the B.C.Z.R. would deprive the Petitioner of rights commonly enjoyed by other properties in similar areas within the Chesapeake Bay Critical Areas in Baltimore County. The granting of the relief requested will not confer upon the Petitioner any special privilege that would be denied by the critical area regulations to other lands or structures within the Chesapeake Bay Critical Areas. Clearly, the request is not based upon conditions or circumstances which are the result of the Petitioner's actions, nor does the request arise from a condition relating to land or building use, either permitted or nonconforming, on another property. The relief requested is in harmony with the general spirit and intent of the Critical Areas legislation for Baltimore County and conforms to the requirements as set forth in Section 500.14 of the B.C.Z.R.

In accordance with Section 500.14 of the B.C.Z.R., the Director of the Department of Environmental Protection and Resource Management has submitted recommendations which describe what steps the Petitioner must take to insure that the relief requested complies with the following Chesapeake Bay Critical Areas requirements to:

- 1) Minimize adverse impacts on water quality that result from pollutants that are discharged from struc-

ORDER RECEIVED FOR FILING
Date 8/22/89
By M. D. Cook

CRITICAL AREA

DESCRIPTION FOR LOT NO. 30

BEGINNING FOR THE SAME at a point on the west side of Oak Avenue 30 feet wide at a distance of 350 feet measured northeasterly along the west side of Oak Avenue from the north side of Middleborough Road and being known as Lot No. 30 as laid out and shown on the Plat of Recreation Grove, said Plat being recorded among the Land Records of Baltimore County in Plat Book No. 7, folio 42.

tures or conveyances or that have run off from surrounding lands;

- 2) Conserve fish, wildlife, and plant habitat; and

- 3) Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts.

These recommendations shall be attached hereto and become a permanent part of the decision rendered in this case. There is no evidence in the record that the relief requested would adversely affect the health, safety, and/or general welfare of the public provided there is compliance with the requirements of the Department of Environmental Protection and Resource Management as more fully described below.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 22nd day of August, 1989 that the Petition to allow a buildable lot with a width of 50 feet in lieu of the required 55 feet, in accordance with Petitioners' Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
2. Compliance with the comments submitted by the Baltimore County Zoning Plans Advisory Committee

ORDER RECEIVED FOR FILING
Date 8/22/89
By M. D. Cook

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner

August 15, 1989



James C. Brennan, Esquire
825 Eastern Boulevard
Baltimore, Maryland 21221

RE: Petition for Zoning Variance
Benjamin O'Neal, et ux and Kimberly Ann Tiemann
Petitioners
Case No. 90-45A

Dear Mr. and Mrs. O'Neal and Ms. Tiemann:

Enclosed please find the decision rendered in the above captioned case. The Petition for Zoning Variance has been granted in accordance with the attached order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

J. Robert Haines

Zoning Commissioner

JRH:mmm

cc: Peoples Counsel

cc: Mr. and Mrs. Benjamin F. O'Neal
212 Oak Road
Baltimore, Maryland 21221

Ms. Kimberly Ann Tiemann
919 Back River Neck Road
Baltimore, Maryland 21221

ORDER RECEIVED FOR FILING
Date 8/22/89
By M. D. Cook

JRH:mmm

cc: Peoples Counsel

cc: Mr. Robert W. Sheesley, Director
Department of Environmental Protection and Resource Management

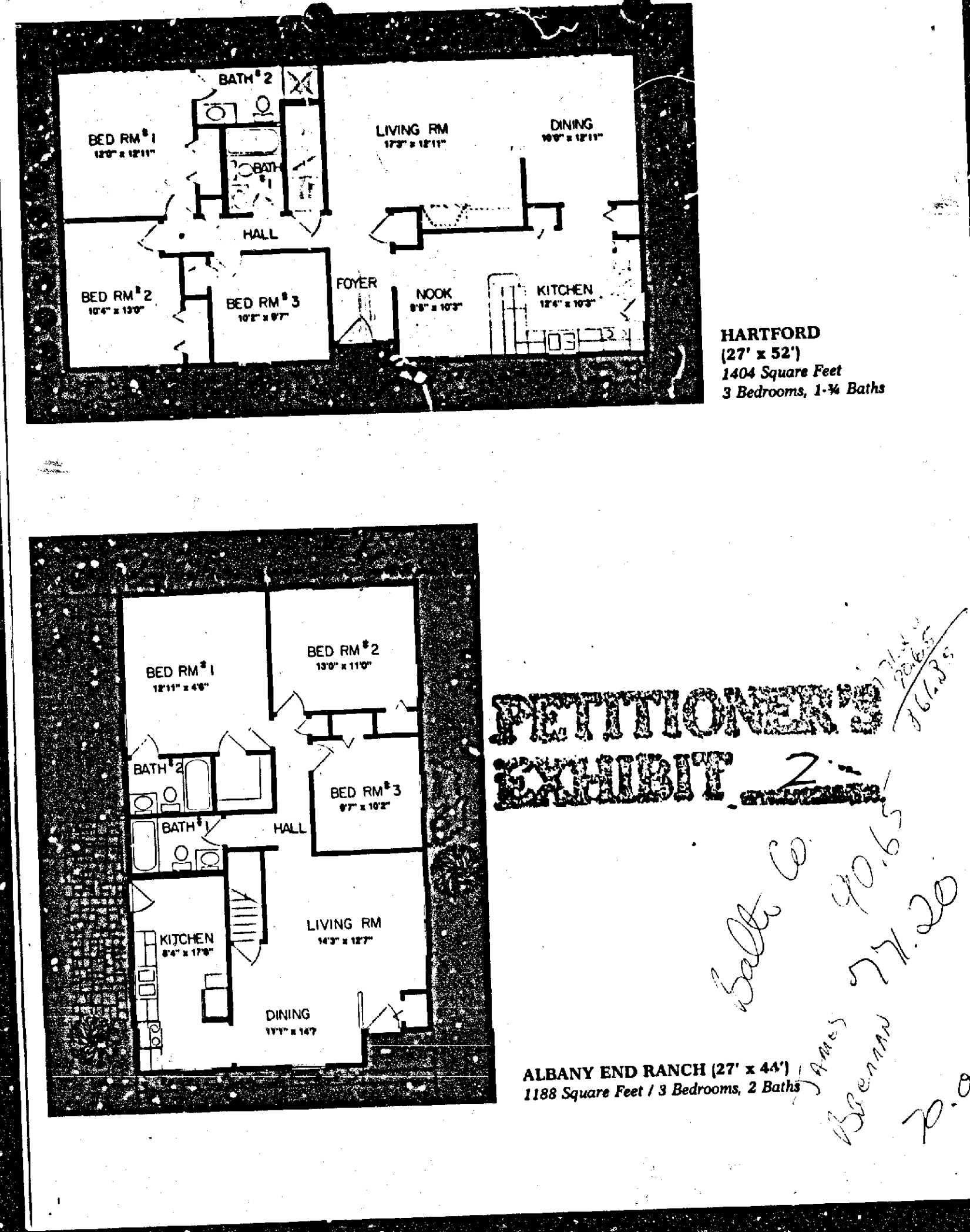
J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner
for Baltimore County

8/10 90-45-A
BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
TO: Mr. J. Robert Haines
Zoning Commissioner
FROM: Mr. Robert W. Sheesley
SUBJECT: Petition for Zoning Variance - Item 499
O'Neal Property
Chesapeake Bay Critical Area Findings
RECEIVED
AUG 9 1989
ZONING OFFICE
The subject property is located at 210 Oak Road off Middleborough Road in Recreation Grove. The site is within the Chesapeake Bay Critical Area and is classified as a limited development area (LDA).
APPLICANT'S NAME Mr. and Mrs. Benjamin F. O'Neal
APPLICANT PROPOSAL
The applicant has requested a variance from section 1802.3.C.1 of the Baltimore County Zoning Regulations to allow a buildable lot with a width of 50 feet in lieu of the required 55 feet.
GOALS OF THE CHESAPEAKE BAY CRITICAL AREA PROGRAM
In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:
1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."
(COMAR 14.15.10.01.0)

Memo to Mr. J. Robert Haines
July 24, 1989
Page 2
REGULATIONS AND FINDINGS
1. Regulation: "A minimum 100 foot buffer shall be established landward from the mean high water line of tidal waters, tidal wetlands, and tributary streams" (Baltimore County Code Sec. 22-213(a)).
Finding: This property is located approximately 600 feet from Hopkins Creek, and therefore is in compliance with the regulation stated above.
2. Regulation: "No dredging, filling, or construction in any wetland shall be permitted. Any wetland must be adequately protected from contamination." (Baltimore County Code Sec. 22-98)
Finding: No tidal or non-tidal wetlands were found on this site, or in the vicinity of the site and therefore none will be disturbed by the proposed project.
3. Regulation: "If no forest or developed woodland exists on a developed site these sites shall be planted to provide forest or developed woodland cover of at least 15% (COMAR 14.15.02.04 C.(5))."
Finding: The following plant material shall be selected from the enclosed list and planted to provide a 15% forested cover.
Shrub and small tree list: twenty items - ball and burlap or 2 gallon container size
Tree list: nine items - ball and burlap
1 - 1.5 inch caliper
4. Regulation: "Infiltration of storm water shall be maximized throughout the site, rather than directing flow to single discharge points" (Baltimore County Code, Sec. 22-217(a)(2)).
Findings:
a. Storm water runoff shall be directed from impervious surfaces associated with this petition to pervious areas to encourage maximum infiltration.
b. Rooftop runoff shall be directed through down-spouts and into a patch drain or seepage pit to encourage maximum infiltration (see attached information).

Memo to Mr. J. Robert Haines
July 24, 1989
Page 3
5. Regulation: "The sum of all man-made impervious areas shall not exceed 15% of the lot" (COMAR 14.15.02.04 C.(7)).
Finding: The proposed construction on this lot does not create impervious surfaces that exceed 15% of the lot.
CONCLUSION
The Zoning Variance shall be conditioned so the project proposal is in compliance with the Chesapeake Bay Critical Area Regulations and findings listed above.
Upon compliance with Chesapeake Bay Critical Area Regulations, this project shall be approved.
Robert W. Sheesley
Robert W. Sheesley, Director
Department of Environmental Protection and Resource Management
RWS:DCF:ju
Attachment
cc: The Honorable Ronald B. Hickernell
The Honorable Norman R. Lauenstein
The Honorable Dale T. Volz

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland
District: 12th
Date of Posting: 7/21/89
Posted for: Variance
Petitioner: Benjamin F. O'Neal, Jr. & Kimberly Ann Hearn
Location of property: 210 Oak Ave., 350' N Middleborough Rd.
Location of Sign: Facing Oak Ave. corner 25' E. to property
Remarks: Per Petition for Zoning Variance
Posted by: [Signature]
Date of return: 7/28/89
Number of Signs: 1

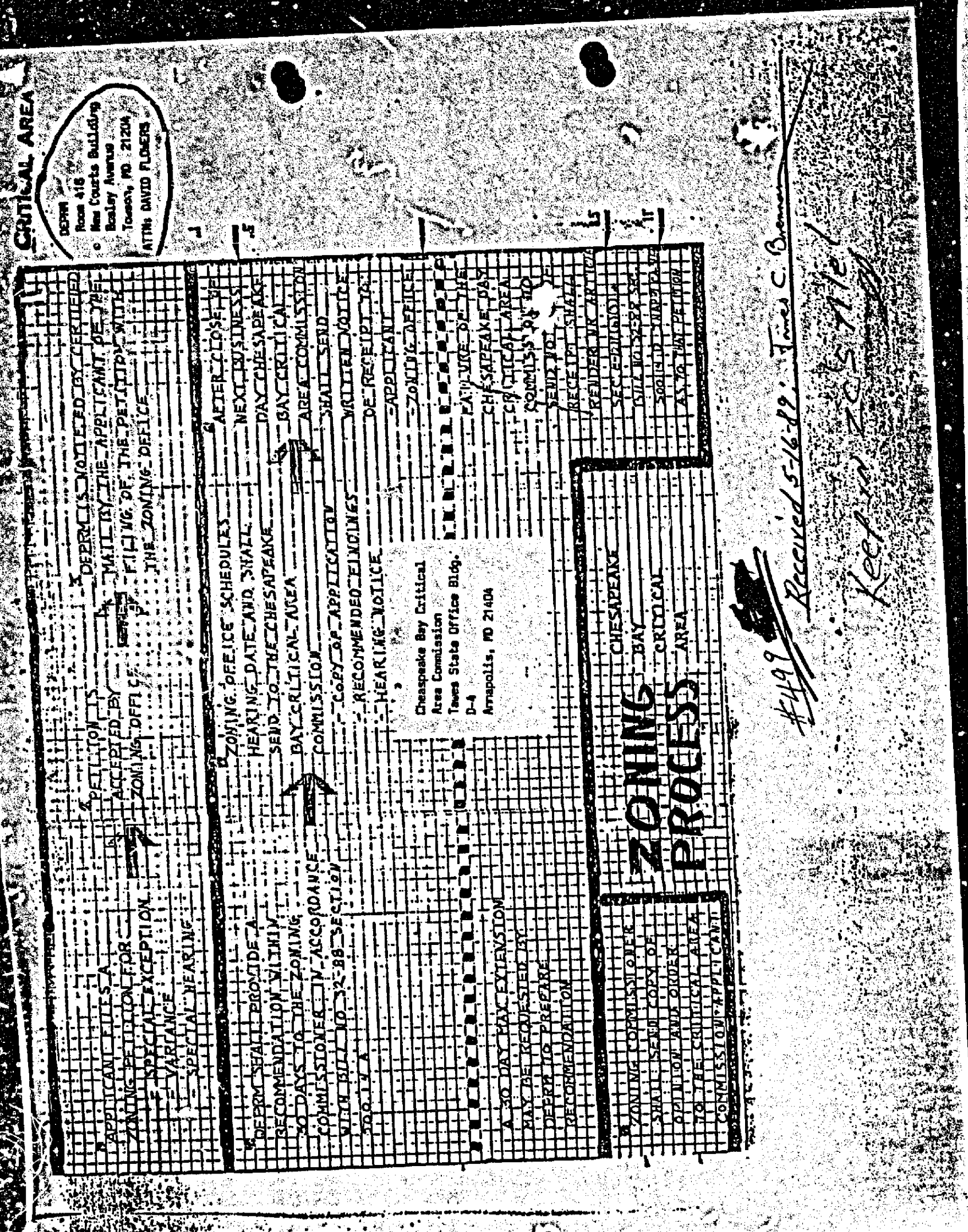


BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE
TO: J. Robert Haines
Zoning Commissioner
FROM: Pat Keller, Deputy Director
Office of Planning and Zoning
SUBJECT: Benjamin and Barbara O'Neal, Item 499
Zoning Petition No. 90-45-A
The applicant is requesting consideration to establish lot sizes of 50 feet in width rather than 55 feet and variances to respective side yards where required. In reference to these requests, staff provides the following information:
In instances such as these, staff's primary concerns are:
1. What is the impact on adjoining property?, and
2. Are adequate front, side, and rear yard setbacks being provided on the site?, and
3. Will the reduced lot sizes result in requests for additional variances when subsequent lot owners try to build unsuitable homes on the lots or expand homes into required areas?
Based upon the information provided and analysis conducted, staff recommends that if any of the requests are granted, the following conditions be attached:
- All building setback lines (front, side, rear) shall be shown on the site plan and recorded by the applicant on the deed of record. Furthermore, a statement shall be attached to the site plan which clearly states that all development shall conform to the setbacks as shown and additional variances shall not be granted for setbacks on the subject property.
- Any applications for building permits shall include a copy of the site plan and the Commissioner's "Findings of Fact and Conclusions of Law," provided by the applicant.

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner
Mr. & Mrs. Benjamin F. O'Neal
712 Oak Avenue
Baltimore, Maryland 21201
Re: Petition for Zoning Variance
CASE NUMBER: 90-45-A
M/S Oak Avenue, 350' N Middleborough Road
210 Oak Avenue
15th Election District - 5th Councilmanic
Legal Owner(s): Benjamin F. O'Neal, et ux
Contract Purchaser(s): Kimberly Ann Hearn
HEARING SCHEDULED: THURSDAY, AUGUST 10, 1989 at 11:00 a.m.
Dear Mr. & Mrs. O'Neal:
Please be advised that \$90.65 is due for advertising and posting of the above captioned property.
THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.
Please make your check payable to Baltimore County, Maryland. Bring the check to the Zoning Office, County Office Building, Room 106, 111 W. Chesapeake Avenue in Towson, Maryland fifteen (15) minutes before the hearing.
BALTIMORE COUNTY, MARYLAND
OFFICE OF PLANNING & ZONING
MISCELLANEOUS CASH RECEIPT
No. 074601
DATE: 8/10/89
AMOUNT: \$ 90.65
RECEIVED BY: BENJAMIN F. O'NEAL ET UX / KIMBERLY ANN HEARN
TOWSON, MARYLAND
8046000003055: 8106F
VALIDATION OF SIGNATURE OF CASHIER

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353
J. Robert Haines
Zoning Commissioner
July 5, 1989
NOTICE OF HEARING
The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:
Petition for Zoning Variance
CASE NUMBER: 90-45-A
M/S Oak Avenue, 350' N Middleborough Road
210 Oak Avenue
15th Election District - 5th Councilmanic
Legal Owner(s): Benjamin F. O'Neal, et ux
Contract Purchaser(s): Kimberly Ann Hearn
HEARING SCHEDULED: THURSDAY, AUGUST 10, 1989 at 11:00 a.m.
Variances: To allow a buildable lot with a width of 50 ft. in lieu of the required 55 ft.
In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.
J. Robert Haines
J. ROBERT HAINES
ZONING COMMISSIONER
BALTIMORE COUNTY, MARYLAND

CERTIFICATE OF PUBLICATION
TOWSON, MD., July 21, 1989
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on July 20, 1989.
THE JEFFERSONIAN,
S. Zeke Orlean
Publisher
PO 13739
reg M31036
ca 90-45-A
price \$39.40



BRENNAN AND BRENNAN
ATTORNEYS AT LAW, P.A.
825 EASTERN BOULEVARD
BETHESDA, BALTIMORE, MD. 21221

18, 1989

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

DEPRM
Room 416
New Courts Building
401 Bosley Avenue
Towson, Maryland 21204

Attn: Mr. David Flowers

Re: Petition for Zoning Variance
Zoning Office Item No. 499
Lot No. 30, Plat Book 7/42
50' Wide Building Lot

Petition for Zoning Variance
Zoning Office Item No. 504
Lot No. 31, Plat Book 7/42
50' Wide Building Lot
8' Side setback

Dear Mr. Flowers:

Benjamin F. O'Neal and Barbara R. O'Neal, his wife, purchased Lot Nos. 30 and 31 on the Plat of Recreation Grove (7/42) by a Land Installment Contract dated December 16, 1964 and recorded among the Land Records of Baltimore County in Liber R.R.G. No. 4489, folio 413. Subsequently, legal title was conveyed to Mr. and Mrs. O'Neal by Deed dated August 13, 1977 and recorded among the Land Records of Baltimore County in Liber E.H.K., Jr., No. 5791, folio 171 (copy enclosed).

Lot No. 31 is 50 feet wide and 157 feet deep and contains approximately 7,690 square feet. Mr. and Mrs. O'Neal's home, known as 212 Oak Avenue, Baltimore, Maryland 21221, is located on Lot No. 31.

Lot No. 30 is 50 feet wide and 151.8 feet deep and contains approximately 7,435 square feet. Lot No. 31 is unimproved.

Both Lot No. 30 and Lot No. 31 are serviced by public sewer and water.

DEPRM
Attn: Mr. David Flowers
May 18, 1989
Page Two

Mr. and Mrs. O'Neal desire to convey Lot No. 30 to their daughter, Kimberly Ann Tiemann, so that she may build a new home. For this reason, Petitions for Zoning Variance (Zoning Office Item Nos. 499 and 504) have been filed requesting variances to permit 50 foot wide building lots in lieu of the 55 foot requirement. Also, with regard to Lot No. 31, the 55 foot requirement. A copy of the Plat which requested a variance to permit an 8 foot side setback in lieu of the 10 foot requirement. A copy of the Plat which accompanied the Petition for Zoning Variance is enclosed.

Please accept this letter as your notification required by the attached Zoning Process.

If you require any further information, please do not hesitate to contact me.

Very truly yours,

James C. Brennan

JCB/klp
Enc.

P-605 061 599

RECEIPT FOR CERTIFIED MAIL
U.S. MAIL SERVICE
(See Reverse)

DEPRM Attn: David Flowers
Room 416, New Courts Building
401 Bosley Ave.
Towson, Md. 21204

USPS Form 3811, Feb. 1986

DOMESTIC RETURN RECEIPT

IMPORTANT NOTICE

TO PETITIONERS

FROM: ZONING COMMISSIONER

SUBJECT: PETITION FOR ZONING VARIANCE

The following information is provided to you as a Petitioner and it is not to be considered complete legal advice.

First, and most importantly, you must understand that the hearing you have requested is a quasi-judicial hearing and you are responsible for meeting the burden of proof required by the Baltimore County Zoning Ordinance. A judicial hearing is an adversary proceeding. In other words, there may be opposition to your request. During a judicial hearing, the parties will be permitted to testify, present evidence and cross-examine witnesses. Either the Zoning Commissioner or the Deputy Zoning Commissioner will rule on the evidence and testimony to determine whether or not the variance will be granted.

Second, you must understand that you are permitted to have representation by an attorney of your choice. You are not required to have an attorney, but it is recommended that you consider obtaining legal representation. **LEGAL REPRESENTATION IS REQUIRED**

Third, it is strongly recommended that you read and understand the requirements of Section 307 of the Baltimore County Zoning Regulations, provided below.

Fourth, no employee of the Baltimore County Zoning Office may provide legal advice to anyone. The representations and opinions of any employee are not to be construed as definitive of any case. Only the decision of the Zoning Commissioner and Deputy Zoning Commissioner is dispositive of any matter after the statutory required public hearing.

Section 307 empowers the Zoning Commissioner to grant variances from height and area regulations when strict compliance would result in practical difficulty or unreasonable hardship, but only if in strict harmony with the spirit and intent of the regulations and then only in such a manner as to grant relief without substantial injury to the public health, safety, and general welfare.

The Court of Special Appeals in *Anderson v. Board of Appeals, Town of Chesapeake Beach*, 22 Md. App. 28, stated:

"To prove undue hardship for a use variance the following three criteria must be met:

- (1) APPLICANT MUST BE UNABLE TO SECURE A REASONABLE RETURN OR MAKE ANY REASONABLE USE OF HIS PROPERTY WHERE FINANCIAL HARSHNESS OR OPPORTUNITY FOR GREATER PROFIT IS NOT BROUGHT;
- (2) THE DIFFICULTIES OR HARSHNESS IS PECULIAR TO THE SUBJECT PROPERTY IN CONTRAST WITH OTHER PROPERTIES IN THE ZONING DISTRICT;
- (3) HARSHNESS WAS NOT THE RESULT OF APPLICANT'S OWN ACTIONS.

To prove practical difficulty for an area variance the following criteria must be met:

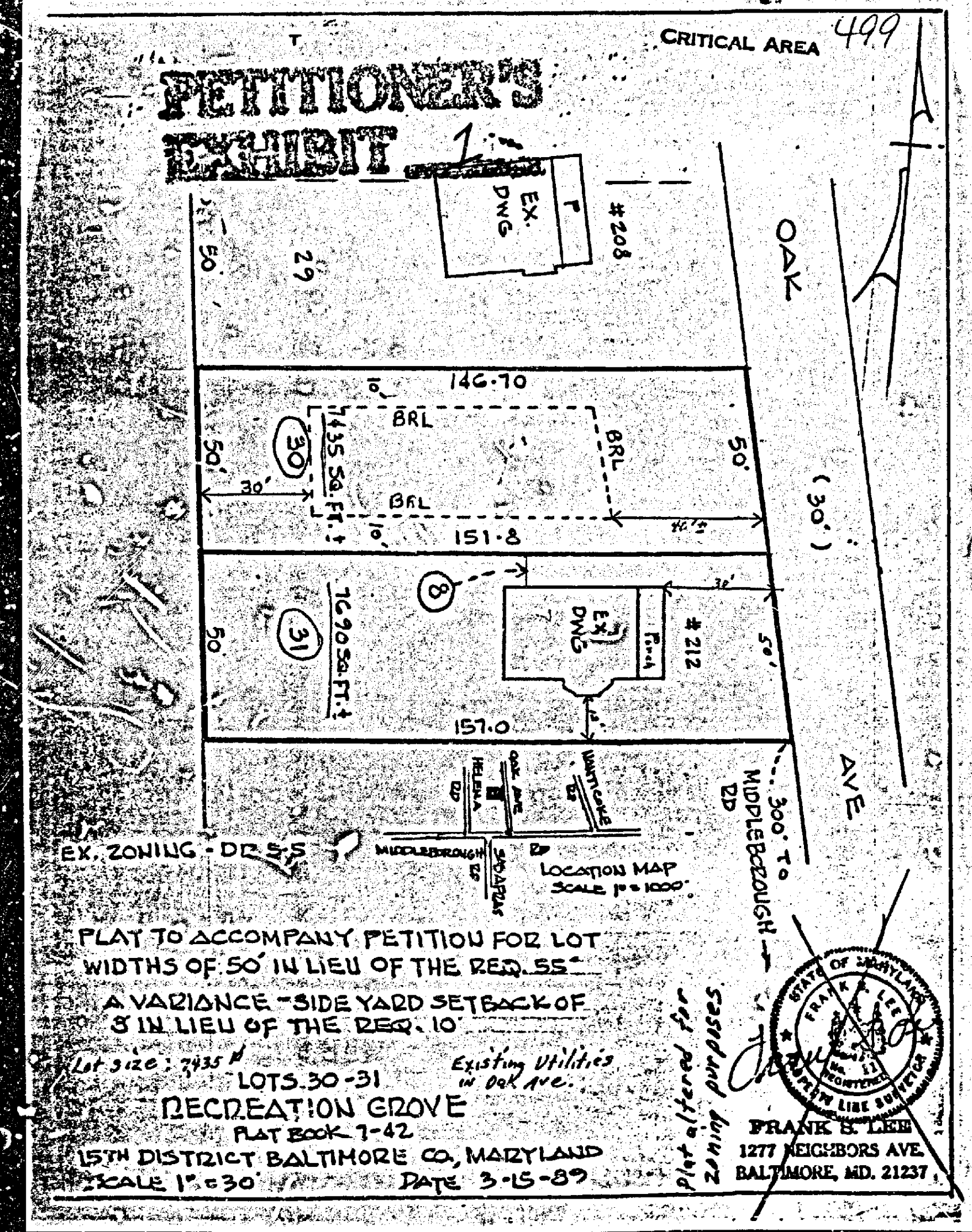
- (1) WHETHER STRICT COMPLIANCE WITH REQUIREMENT WOULD UNREASONABLY PREVENT THE USE OF THE PROPERTY FOR A PERMITTED PURPOSE OR RENDER CONFORMANCE UNREASONABLY BURDENSOME;
- (2) WHETHER THE GRANT WOULD TO SUBSTANTIAL INJUSTICE TO APPLICANT AS WELL AS OTHER PROPERTY OWNERS IN DISTRICT OR WHETHER A LESSER RELAXATION THAN THAT APPLIED FOR WOULD GIVE SUBSTANTIAL RELIEF;
- (3) WHETHER RELIEF CAN BE GRANTED IN SUCH MANNER THAT THE SPIRIT OF THE ORDINANCE WILL BE OBSERVED AND PUBLIC SAFETY AND WELFARE SECURED."

This Notice is not to be considered legal advice.

Even though there may be opposition in a given case, your request may be denied. This information is provided by J. Robert Haines, Zoning Commissioner, as a public service.

SECTION 307 - VARIANCES

The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from offstreet parking regulations and from sign regulations, only in cases where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. To increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, offstreet parking, or sign regulations and only in such manner as to grant relief without substantial injury to public health, safety, and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance.



BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

August 2, 1989

COUNTY OFFICE BLDG.
111 N. Chesapeake Ave.
Towson, Maryland 21204

James C. Brennan, Esquire
825 Eastern Avenue
Baltimore, MD 21221

RE: Item No. 499, Case No. 90-45-A
Petitioner: Benjamin F. O'Neal, et ux
Petition for Zoning Variance

Dear Mr. Brennan:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE. ATTENTION: JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,
James E. Dyer
Chairman
Zoning Plans Advisory Committee

JED:jw
Enclosures

cc: Mr. & Mrs. Benjamin F. O'Neal
Ms. Kimberly Ann Tiemann

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 887-3353

J. Robert Haines
Zoning Commissioner

Dennis F. Rasmussen
County Executive

Your petition has been received and accepted for filing this
31th day of May, 1989.

Received By:
James E. Dyer
Chairman,
Zoning Plans Advisory Committee

Petitioner: Benjamin F. O'Neal, et ux
Petitioner's Attorney: James E. Brennan

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
(301) 887-3554

Dennis F. Rasmussen
County Executive

June 6, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 487, 488, 489, 491, 492, 494, 495, 496, 497, 498, and 499.

Very truly yours,
Michael S. Flanigan
Michael S. Flanigan
Traffic Engineer Assoc. II

MSF/lvw

Baltimore County
Fire Department
800 York Road
Towson, Maryland 21204-2586
(301) 887-4500

Paul H. Ralston
Chief

June 1, 1989

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

Dennis F. Rasmussen
County Executive

RE: Property Owner: Legal Owner: Benjamin F. O'Neal

Location: 210 Oak Avenue

Item No.: 2539 Zoning Agenda: May 30, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *Carl J. Kelly* 6-2-89 Noted and Approved
Planning Group Fire Prevention Bureau
Special Inspection Division

JK/ker

PLANT ASSOCIATION: UPLAND MOIST

NAME

RELATIVE ABUNDANCE

VEGETATIVE STRATA - SHRUBS AND SMALL TREES

<u>Asimina triloba</u>	(Paw Paw)	Abundant
<u>Amelanchier canadensis</u>	(Canadian Serviceberry)	Abundant
<u>Amelanchier laevis</u>	(Serviceberry)	Abundant
<u>Amelanchier obovalis</u>	(Obovate Serviceberry)	Abundant
<u>Clethra alnifolia</u>	(Sweet Pepperbush)	Abundant
<u>Cornus amomum</u>	(Silky Dogwood)	Local
<u>Cornus florida</u>	(Flowering Dogwood)	Freq. Abund.
<u>Gaylussacia frondosa</u>	(Huckleberry)	Abundant
<u>Ilex opaca</u>	(American Holly)	Abund.-Freq.
<u>Itea virginica</u>	(Tassel-White)	Infrequent
<u>Kalmia angustifolia</u>	(Lamb-Kill)	Abundant
<u>Kalmia latifolia</u>	(Mountain Laurel)	Abundant
<u>Leucothoe racemosa</u>	(Fetter-Bush)	Abundant
<u>Lindera benzoin</u>	(Common Spicebush)	Frequent
<u>Lyonia ligustrina</u>	(Male-Berry)	Frequent
<u>Myrica pensylvanica</u>	(Bayberry)	Frequent
<u>Prunus serotina</u>	(Black Cherry)	Abundant
<u>Prunus virginiana</u>	(Chokeberry)	Local
<u>Rhododendron nudiflorum</u>	(Pinxter Flower)	Infrequent

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PLANT ASSOCIATION: UPLAND MOIST (Continued)

NAME

RELATIVE ABUNDANCE

<u>Rhus glabra</u>	(Smooth Sumac)	Freq. (Early Succession)
<u>Rubus hispidus</u>	(Swamp Dewberry)	Frequent
<u>Rubus occidentalis</u>	(Wild Black Raspberry)	Frequent
<u>Sambucus canadensis</u>	(Elder)	Frequent
<u>Vaccinium angustifolium</u>	(Low Sweet Blueberry)	Frequent
<u>Vaccinium corymbosum</u>	(Highbush Blueberry)	Abundant
<u>Viburnum acerifolium</u>	(Maple-Leaved Arrowhead)	Frequent
<u>Viburnum prunifolium</u>	(Black Haw)	Frequent

VEGETATIVE STRATA - TREES

<u>Acer rubrum</u>	(Red Maple)	Abundant
<u>Betula nigra</u>	(River Birch)	Local
<u>Carya glabra</u>	(Pignut Hickory)	Frequent
<u>Celtis occidentalis</u>	(Hackberry)	Frequent
<u>Diospyros virginiana</u>	(Common Persimmon)	Local
<u>Fagus grandifolia</u>	(American Beech)	Frequent
<u>Fraxinus americana</u>	(White Ash)	Frequent
<u>Juglans nigra</u>	(Black Walnut)	Frequent
<u>Juniperus virginiana</u>	(Red Cedar)	Abund. (Early Succession)
<u>Liquidambar styraciflua</u>	(Sweet Gum)	Abundant
<u>Liriodendron tulipifera</u>	(Yellow Poplar)	Abundant

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PLANT ASSOCIATION: UPLAND MOIST (Continued)

NAME

RELATIVE ABUNDANCE

<u>Magnolia virginiana</u>	(Sweet Bay Magnolia)	Frequent
<u>Nyssa sylvatica</u>	(Black Gum)	Abundant
<u>Populus grandidentata</u>	(Swamp Poplar)	Infrequent
<u>Populus deltoides</u>	(Cottonwood)	Infrequent
<u>Quercus alba</u>	(White Oak)	Abundant
<u>Quercus phellos</u>	(Willow Oak)	Frequent
<u>Quercus prinus</u>	(Chestnut Oak)	Abundant
<u>Quercus rubra</u>	(Red Oak)	Abundant
<u>Sassafras albidum</u>	(Sassafras)	Abundant

Source: Baltimore County Office of Planning and Zoning, May 1987

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